



TOWN OF WINCHESTER
PLANNING AND ZONING COMMISSION
Town of Winchester Town Hall 338 Main Street - 2nd Floor – P. Francis Hicks
May 23, 2022 – 7:00PM
Regular Meeting Minutes

1. ROLL CALL:

Chairman George Closson called the meeting to order at 7:00PM.

Mr. Closson noted that the following individuals were present: John Cooney, Peter Marchand, Willard Platt, Craig Sanden, Alternates Feliks Viner, Troy LaMere, and Charlene LaVoie.

2. PUBLIC COMMENT:

None.

3. AGENDA REVIEW:

No changes were made to the agenda.

4. OTHER BUSINESS:

None.

5. PUBLIC HEARINGS:

None.

6. OLD BUSINESS:

A. PZC#22-3 – Zoning Regulation Change Applicant/Owner: Steven Heffer and Heena Sultan Proposal: Modification to Section III(D)(5)(c).

The legal ad was read into the record with it being noted as having run the requisite two times, May 10, 2022 and May 16, 2022, in the Republican American. Staff confirmed that notice of the proposed regulation change had been provided to the abutting town clerks as well as to the Northwest Hills Regional Council of Governments. The COG had found the proposed language put forth in the application did not conflict the regional plan of conservation and development, according to staff.

Attorney Philip Pires from the firm of Cohen and Wolf appeared before the commission regarding this application. He noted that the proposed language would provide the Town with flexibility to allow for development and disturbances of slopes of 25% or greater, subject to a Special Permit. He explained that the Town could ensure that in a particular place, adequate soil erosion protections would be in place. Attorney Pires reminded the commission that a Special Permit was required on slopes greater than 15% but prohibits development on slopes greater than 25% unless for public safety or public utility. He noted that the proposed language in this communication would allow for more, subject to a special permit which could then be conditioned. Mr. Closson questioned why the commission might be inclined to make this change. Attorney Pires indicated that it would allow for flexibility. Mr. Closson questioned why the elimination of 15%. Attorney Pires explained that it would not affect the need for a Special Permit on slopes greater than 15% but it would eliminate the prohibition on slopes greater than 25%. The language would allow this commission a safety valve on what other conditions it might want to impose on projects with slopes greater than 25%, according to Attorney Pires.

The hearing was open to the public.

Candy Perez of 605 West Wakefield Boulevard questioned whether the zoning regulations currently require a Special Permit for development on slopes greater than 15%. Mr. Closson confirmed. Ms. Perez noted that there would be concerns with runoff on steeper slopes at Highland Lake.

Jack Bourque of 78 Crown Street questioned why such a request, one change for development for one property, was not before the Zoning Board of Appeals.

Jen Perga of 378 East Wakefield Boulevard indicated that people often don't follow what is on the plans, with the result being deviations from approved plans and disastrous field conditions. She cited the recent solar farm as an example of erosion into the wetlands.

Attorney Pires pointed out that the proposed text amendment does not create a right to a specific activity but instead affords a process to allow for development. He noted that no one would have a right to work on slopes greater than 25% but would only have a right to ask to.

Mr. Closson polled the commission and alternate commissioners. Ms. LaVoie questioned whether the 15% limit is something that is carried state-wide or whether it was just a limit in Winchester. She guessed there might be some history to that limit. Mr. Cooney noted the point suggested by Mr. Bourque. Mr. Sanden recalled a housing development proposal that had been brought to the town that ultimately was reduced from 50 homes to 22 homes, a result achieved through protecting steeper slopes in the area. He noted that was the location of the solar farm. Mr. Marchand shared his concerns with any type of clear cutting or disturbances on slopes in excess of 25% due to the potential for runoff onto neighboring properties. Mr. Platt noted that neighboring communities Norfolk and New Hartford both impose limits of 25%. Citing his position as Superintendent of Streets in Norfolk, Mr. LaMere noted the runoff on properties that were developed prior to the adoption of zoning regulations. He indicated the problems that can be seen with roads and catch basins.

Attorney Pires noted that an application received to this commission, should the text amendment be approved, would allow for assurance to be provided for adequate erosion controls, drainage measures, and the controls could quite possibly improve the existing conditions. He noted that properties already developed may have stormwater issues already and the language would then allow this commission control over those ensuring owners have a mechanism for modernizing their properties and improving stormwater. Otherwise, to not allow a path for approval, there will be no construction on those properties, according to Attorney Pires.

Ms. Perez readdressed the commission, opining those properties that may need drainage improvements were likely caused by human beings and if the property had remained undeveloped or untouched, it wouldn't need improvement. She cited her family owning their property for 59 years, noting that her family has always taken good care of it. Ms. Perez noted that an application put before the Zoning Board of Appeals would allow work on a slope in excess of 25% so questioned why a text amendment that would affect the entire town should be approved.

Attorney Pires suggested that a process that relies upon the Zoning Board of Appeals is not optimal because it allows for an exception to the regulations. He noted that this proposal was more stringent because it allows for a public hearing where the Town can impose conditions whereas the Zoning Board of Appeals can impose no conditions. Attorney Pires explained that a proposal could be approved by Zoning Board of Appeals with no treatment of runoff and yet the applicant could very likely be entitled to a variance. He suggested this application provided more protection to the Town. He noted that with this text amendment change, it would be difficult for an applicant to argue that he shouldn't have adequate stormwater controls. He opined that it is better for a Town to have a process rather than to suggest that a regulation on the books be ignored by granting variances on a case-by-case basis.

Ms. LaVoie questioned whether the Town's legal counsel, Kevin Nelligan, has reviewed this. Mr. Closson indicated that he had not. Ms. LaVoie suggested that he should, in terms of whether the Zoning Board of Appeals in their ability to grant variances, makes it far more loose rather than if this commission were to have the oversight to review proposals and impose safeguards.

Discussion ensued.

MOTION: Mr. Marchand, Mr. Sanden second, to continue the public hearing for Application PZC#22-3 – Zoning Regulation Change Applicant/Owner: Steven Heffer and Heena Sultan Proposal: Modification to Section III(D)(5)(c) to the June 13, 2022 regular meeting; unanimously approved.

7. NEW BUSINESS:

None.

8. APPROVAL OF MINUTES – April 25, 2022:

The April 25, 2022 Minutes should include the following modification:

The language in the eighth paragraph of the third page that reads, “...*Mr. Platt questioned whether the Sucker Brook repairs would require the road to be shut down.*” should instead read, “...*Mr. Platt questioned whether the Taylor Brook repairs would require the road to be shut down.*”.

MOTION: Mr. Marchand, Mr. Platt second, to approve the April 25, 2022 Minutes as amended; unanimously approved.

9. COMMUNICATIONS:

Staff noted the flyer distributed to the commission on the Feedback Forum(s) on the Affordable Housing Plan scheduled for Tuesday, May 31st, with one remote option at noon and one in-person option at 7PM at Town Hall. Ms. LaVoie questioned whether there was a draft of a plan yet. Staff noted that there has not been one uploaded to the town website yet. Ms. LaVoie questioned whether this commission had any independent authority on this plan prior to its adoption. Mr. Closson noted that it did not beyond providing feedback to the Housing Steering Committee. Neither Mr. Closson nor Ms. LaVoie indicated that they were able to make a meeting scheduled for May 31st. The consensus of the commission was that there ought to be another opportunity for feedback to be provided after a draft plan is available.

10. STAFF REPORT:

Staff reported that the old Primo property, 8 South Main Street, is likely to be changing hands once again. Additionally, a zoning permit had been received for a retail store at 58 Main Street, at the corner of Main and Park, though staff is attempting to understand what is occurring in the upstairs units at this former boarding house. Staff reported the retirement of long-time Building Official Marc Melanson effective May 3rd, noting the shortage of available building officials generally within the area. In the interim, the town has very part-time coverage from a local building official covering two other Litchfield County towns, according to staff.

Staff reported the proposed addition of a walk-up window at the Railway Café at 580 Main Street. Staff also relayed a request for a predevelopment meeting received by the real estate broker handling 108 East Lake Street and why it was discouraged in an effort to protect the Town from any claim of predetermination especially as it would involve discussion of a use not currently allowed in that zone.

Ms. LaVoie questioned whether the Town still had a blight program. Staff explained that about a year ago the responsibility of the Blight Officer was removed from the Building Official job description and merged into a newly created full-time position of Enforcement Officer who was to be tasked with Blight, Zoning Enforcement, and Wetlands Agent. Ms. LaVoie questioned whether this commission should be reviewing properties cited for blight. Staff noted that this commission had historically not received regular reports on blight but were periodically provided with details on how many properties and which ones were currently cited.

Mr. Closson reminded the commission that at one point, there were efforts being made to schedule a joint land use board. He indicated that this effort should be renewed.

11. OTHER BUSINESS:

None.

12. ADJOURNMENT:

MOTION: Mr. Closson, Mr. Platt second, to adjourn; unanimously approved. The Commission adjourned at 8:16PM.

**Respectfully submitted,
Pamela A. Colombie
Recording Clerk**